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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Proceeding | 92051898 |
| Party | Plaintiff Quest Network, Inc. |
| Correspondence Address | Michael M. Lafeber Briggs and Morgan, P.A. 2200 IDS Center , 80 South Eighth Street, Suite 2200 Minneapolis, MN 55402 UNITED STATES mlafeber@briggs.com |
| Submission | Motion for Default Judgment |
| Filer's Name | Michael M. Lafeber |
| Filer's e-mail | mlafeber@briggs.com |
| Signature | /Michael M. Lafeber/ |
| Date | 02/18/2010 |
| Attachments | Quest Mtn for Default Judgment.pdf (3 pages)(73713 bytes) |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of:

**Registration No. 3,545,600 (Registered December 9, 2008)
Mark: COSTA RICA BLUE ZONE**

**Registration No. 3,660,184 (Registered July 28, 2009)
Mark: BLUE ZONE WATER**

Quest Network, Inc.,

Petitioner,

-against-

WTB Technology Corporation,

Respondent.

Cancellation No. 92051898

I hereby certify that this Motion for Default Judgment is being transmitted to the TTAB via the electronic System for Trademark Trial and Appeals on February 18, 2010.

/Michael M. Lafeber/

Michael M. Lafeber

**PETITIONER'S MOTION FOR DEFAULT JUDGMENT
DUE TO FAILURE TO ANSWER**

Petitioner Quest Network, Inc. ("Petitioner") hereby moves for default judgment in its favor due to Respondent WTB Technology Corporation's ("Respondent") failure to answer. Specifically, Petitioner requests that its petition be granted and Registration Nos. 3,660,184 and 3,545,600 be canceled. This motion is brought pursuant to, without limitation, TBMP Sections 312.01 and 508, Federal Rule of Civil Procedure 55, and 37 CFR § 2.114(a).

37 CFR § 2.114(a) provides that "[i]f no answer is filed within the time set, the petition may be decided as in case of default." A petitioner is allowed to prosecute its own motion for default in lieu of the Board's issuance of a notice of default. TBMP Section 312.01 provides,

"[A] plaintiff, realizing that the defendant is in default, may file a motion for default judgment (in which case the motion may serve as a substitute for the Board's issuance of a notice of default). . ." TBMP Section 508 further clarifies that a petitioner may file a motion for default on its own initiative. It provides, "[A] plaintiff, realizing that the defendant is in default, may file a motion for default judgment (in which case the motion may serve as a substitute for the Board's issuance of a notice of default)." *Id.*

In the present case, the Board sent a Notice on December 27, 2009 expressly setting a February 5, 2010 due date for Respondent to answer the petition. (Dkt. No. 2.) No such answer or other responsive pleading was received by Petitioner or filed with the Board on or before February 5, 2010. At not time did Respondent request an extension of time. As of the date of this motion, Petitioner has received no communications from Respondent and Respondent has made no attempt to justify or seek relief from its default.

In light of Respondent's default, Petitioner requests that default judgment be entered in its favor, that its petition be granted, and that Registration Nos. 3,660,184 and 3,545,600 be cancelled.

Respectfully submitted,

Dated: February 18, 2010

BRIGGS AND MORGAN, P.A.

By /Michael M. Lafeber/
Michael M. Lafeber (#242871)
2200 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402
Telephone: (612) 977-8400
Facsimile: (612) 977-8650

Attorneys for Petitioner Quest Network, Inc.

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WTB Technology Corporation,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **PETITIONER'S MOTION FOR DEFAULT JUDGMENT DUE TO FAILURE TO ANSWER** has been served upon the Opposer at the address of record listed below by Federal Express on this date.

Mr. Craig C. Waterman
President
WTB TECHNOLOGY CORPORATION
245 Industrial Street
Bakersfield, CA 93307

Dated: February 18, 2010

BRIGGS AND MORGAN, P.A.

By /Michael M. Lafeber/
Michael M. Lafeber
2200 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402
Telephone: (612) 977-8400
Facsimile: (612) 977-8650

Attorneys for Petitioner Quest Network, Inc.